

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA *ex rel*
TRAVIS THAMS, RELATOR, and on
behalf of the STATES of CALIFORNIA,
COLORADO, CONNECTICUT,
DELAWARE, FLORIDA, GEORGIA,
HAWAII, ILLINOIS, INDIANA,
LOUISIANA, MARYLAND,
MASSACHUSETTS, MICHIGAN,
MINNESOTA, MONTANA, NEVADA,
NEW HAMPSHIRE, NEW JERSEY, NEW
MEXICO, NEW YORK, NORTH
CAROLINA, OKLAHOMA, RHODE
ISLAND, TENNESSEE, TEXAS,
VIRGINIA, WISCONSIN and the
DISTRICT OF COLUMBIA,

Plaintiffs,

vs.

CARDIOVASCULAR SYSTEMS, INC.,

Defendant.

Civil Action No. 3:13-cv-404

FILED UNDER SEAL

FILED
CHARLOTTE, NC
JUN 15 2015
U.S. DISTRICT COURT
WESTERN DISTRICT OF NC

**NOTICE OF THE UNITED STATES THAT
IT IS NOT INTERVENING AT THIS TIME**

In its last Order, dated, March 18, 2015, the Court indicated that the Government must make its intervention decision on or before June 15, 2015, and that no further extensions of time would be granted. The Government's investigation has not been completed and, as such, the United States and the Plaintiff States¹ are not able to decide, as

¹ The "Plaintiff States" joining in the instant notice include the named states, with the exception of Florida and Maryland. With respect to MD, at the request of MD the United States is conveying the following information. The Maryland False Health Claims Act provides that "If the State does not elect to intervene and

of the Court's deadline, whether to proceed with the action. Accordingly, the United States and the Plaintiff States hereby notify the Court that they are not intervening at this time. However, the Government's investigation will continue.

Although the United States and the Plaintiff States are not intervening at this time, they respectfully refer the Court to 31 U.S.C. § 3730(b)(1), and analogous State False Claims Act provisions, which allows the relator to maintain the action in the name of the United States and/or Plaintiff States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." Id. Therefore, the United States requests that, should either the relator or the defendant propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States and Plaintiff States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), and analogous State False Claims Act provisions, the United States requests that all pleadings filed in this action be served upon it and the Plaintiff States; the United States also requests that orders issued by the Court be sent to the Government's counsel. The United States and Plaintiff States reserve their rights to order any deposition transcripts, to intervene in this action, for good cause, at a later date, and to seek the dismissal of the relator's action or claim. The United States and Plaintiff States also request that they be served with all notices of appeal.

Finally, the Government requests that the relator's Complaint, this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on

proceed with the action . . . before unsealing the complaint, the court shall dismiss the action." Md. Code Ann., Health Gen, § 2-604 (a)(7). Accordingly, the State of Maryland requests that all claims asserted on behalf of the State of Maryland be dismissed without prejudice with respect to only the State of Maryland.

file in this action remain under seal because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

A proposed order accompanies this notice.

Respectfully submitted this 15th day of June, 2015.

JILL WESTMORELAND ROSE
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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of June, 2015, the foregoing Notice of the United States that it is Not Intervening at This Time was not served upon the parties below, as these discussions pertain to investigations being undertaken by the United States.

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